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8 Attorneys for Defendant  
9 COUNTY OF MARIN

10

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 SEAPLANE ADVENTURES, LLC, a California  
14 Limited Liability Company

15 Plaintiff,

16 v.

17 COUNTY OF MARIN, CALIFORNIA; AND  
18 DOES 1 THROUGH 10, Inclusive,

19 Defendant.

20 Case No.: 20-cv-06222-WHA

21

22 **DECLARATION OF CHIEF DEPUTY  
23 COUNTY COUNSEL JENNA J. BRADY IN  
24 SUPPORT OF DEFENDANT COUNTY OF  
25 MARIN'S MOTION FOR SUMMARY  
26 JUDGMENT**

27 Complaint filed: September 2, 2020

28 Date: October 7, 2021  
Time: 8:00 AM  
Judge: Honorable William Alsup  
Dept: Courtroom 12, 19<sup>th</sup> Floor

29 I, JENNA J. BRADY, declare as follows:

30 1. I am employed by the County of Marin ("County") as the Chief Deputy County Counsel  
31 in the Office of the County Counsel, attorneys of record for County. I am licensed to practice law in  
32 the State of California and before this court, and submit this declaration in support of the County's  
33 motion for summary judgment. I have personal knowledge of the contents of this declaration, except as  
34 to any matters stated on information and belief, and as to those matters, I am informed and believe them  
35 to be true. If called as a witness, I could and would competently testify to the matters set forth in this  
36 declaration.

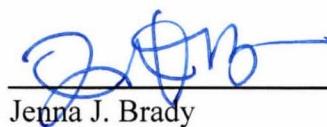
1           2. In 2020, County (through its Public Health Officer, Dr. Matthew Willis) issued a number  
2 of health orders and other guidance in response to the COVID-19 pandemic. In connection with my  
3 duties as the Chief Deputy County Counsel, I provided legal advice to County staff and departments  
4 regarding a range of issues related to the COVID-19 pandemic, including the health orders and other  
5 guidance issued by Dr. Willis. As a result, I was familiar with the terms of the health orders as they  
6 were issued.

7           3. I understand that County staff received an email on May 28, 2020 from a representative  
8 of Skydive Golden Gate, a recreational skydiving tour business operating out of Marin County Airport,  
9 inquiring as to whether the business could resume its operations under the terms of the health orders in  
10 effect at that time. After I discussed this inquiry with Marin County Public Health Officer Dr. Matthew  
11 Willis and others, I responded to the Skydive Golden Gate representative (Michael Knight) via email.  
12 On June 19, 2020, Mr. Knight replied to my email, and on June 19, 2020, I sent Mr. Knight a further  
13 response. A true and correct copy of the email chain containing these communications is attached  
14 hereto as Exhibit 8.

15  
16           I declare under penalty of perjury under the laws of the State of California that the foregoing is  
17 true and accurate to the best of my knowledge

18           Executed on September 1, 2021, in San Rafael, California.

19           By:

20             
21           \_\_\_\_\_  
22           Jenna J. Brady

# **EXHIBIT 8**

**From:** [Brady, Jenna](#)  
**To:** [Michael Knight](#)  
**Cc:** [Albert, Tanya](#); [Williams, Tony](#); [Arnold, Judy](#)  
**Subject:** Re: Plans to resume skydiving  
**Date:** Friday, June 19, 2020 11:21:20 AM

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Mr. Knight,

At this time, only outdoor recreation is permitted and individuals inside a plane for recreational activities is not permitted. Please note that the Seaplane Operations have also been instructed to cease operations related to recreational activities.

Best,  
Jenna

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**From:** Michael Knight <[info@skydivegoldengate.com](mailto:info@skydivegoldengate.com)>  
**Sent:** Friday, June 19, 2020 11:08 AM  
**To:** Brady, Jenna <[JBrady@marincounty.org](mailto:JBrady@marincounty.org)>  
**Cc:** Albert, Tanya <[TAlbert@marincounty.org](mailto:TAlbert@marincounty.org)>; Williams, Tony <[TWilliams@marincounty.org](mailto:TWilliams@marincounty.org)>; Arnold, Judy <[JArnold@marincounty.org](mailto:JArnold@marincounty.org)>  
**Subject:** Re: Plans to resume skydiving

Hi Jenna,

I just spoke with Seaplane Adventures in Sausalito. They have been operating recreational airplane tours since June 5th. Your argument against individuals in an aircraft for recreational purposes goes out the window with their operation.

This is overtly hypocritical and blatantly discriminating against skydiving, once again from certain people within the county. The three years we spent fighting discrimination from airport staff to open under the FAA grant assurances is still fresh in our minds. I understand certain members of Marin County and the airport staff seem to have an issue with skydiving despite our impeccable safety record and dedication to professionalism. We will not be chased out under false pretenses, and we expect to be permitted to open immediately.

Regards,  
Michael Knight

On Jun 11, 2020, at 4:21 PM, Brady, Jenna <[JBrady@marincounty.org](mailto:JBrady@marincounty.org)> wrote:

Hi Michael,

Sorry for the misinformation you were provided. At this time, the County of Marin does not permit indoor recreational activities unless it is related to summer camps for youth. Transportation, however, that is not recreational in nature was deemed essential by the local Public Health Officer and the State at the start of the Shelter In Place Order. If the flight school is related to essential travel, then that may be how they are operating. For businesses that have individuals inside the plane together and are for recreational purposes, this is not yet permitted by the County. The County's public health team continues to review businesses that may be opened safely and have a low risk of transmission and I have passed your email onto that group for consideration.

Best,  
Jenna

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**From:** Albert, Tanya <TAlbert@marincounty.org>  
**Sent:** Thursday, June 11, 2020 1:56 PM  
**To:** Michael Knight <info@skydivegoldengate.com>  
**Cc:** Williams, Tony <TWilliams@marincounty.org>; Arnold, Judy <JArnold@marincounty.org>; Brady, Jenna <JBrady@marincounty.org>  
**Subject:** RE: FW: Plans to resume skydiving

Hello Michael,

To clarify, County Counsel and the Public Health Director did not revoke a decision that they previously made. My original response to you was an assumption/interpretation of the Order that myself and Tony made. County Counsel and the Public Health Director disagree.

I am copying a member of our County Counsel team, Jenna, on this email.

Jenna – Supervisor Arnold is hoping you can help answer Michael's questions below.

Thank you,  
Tanya

**Tanya Albert**  
Aide to Supervisor Judy Arnold  
3501 Civic Center Drive, Ste. 329  
San Rafael, CA 94903  
(415) 473-7371

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### **Stay In-the-Know During COVID-19**

- ~Text "MARIN COVID" to 468311 to receive text message notifications
- ~Subscribe [online](#) to receive email notifications
- ~Visit the [Marin HHS Coronavirus website](#) for FAQs, case count, and a variety of resources

**From:** Michael Knight <info@skydivegoldengate.com>

**Sent:** Thursday, June 11, 2020 1:37 PM

**To:** Albert, Tanya <[TAlbert@marincounty.org](mailto:TAlbert@marincounty.org)>

**Cc:** Williams, Tony <[TWilliams@marincounty.org](mailto:TWilliams@marincounty.org)>; Arnold, Judy <[JArnold@marincounty.org](mailto:JArnold@marincounty.org)>

**Subject:** Re: FW: Plans to resume skydiving

Hi Tanya,

Obviously this is difficult news for us to hear. I know this isn't your decision, and I very much appreciate your help through this process. What information did County Counsel and the Public Health Director receive that caused them to revoke our permission to operate? I'd at least like to offer a rebuttal.

Can County Counsel or the Public Health Director explain why skydiving poses more of a risk of COVID-19 than flight instruction, where pilots are contained shoulder to shoulder inside a small aircraft talking continuously for an extended period of time? Such flight instruction has been operating at Gnoss with no fight from the county and no reported infections through the thick of the pandemic.

The safety of our staff and customers has always been our top priority, and it continues to be through this pandemic. I'm very confident we can operate safely with mitigation measures in place -- more mitigation measures than have been required of any of the numerous currently operating skydiving businesses in the Bay Area. We take no issue with meeting these rigorous standards. We would simply like to be given a fair opportunity. I have attached a copy of our site-specific protection plan, and I'm happy to discuss any further measures that would allow us to operate.

Kind regards,  
Michael Knight  
Skydive Golden Gate  
415-770-4011

On Thu, Jun 11, 2020 at 11:54 AM Albert, Tanya <[TAlbert@marincounty.org](mailto:TAlbert@marincounty.org)> wrote:

Hello Michael –

Our office has been informed that both County Counsel and our Public Health Director have determined that skydiving businesses are not able to operate under

the County's "outdoor business" guidelines, nor under any other of the Public Health Order allowances.

I apologize that I have provided you with inaccurate information – which most certainly is only adding the frustration and difficulty you are facing at this time.

Supervisor Arnold is working with County Counsel and our Public Health Director to obtain some clarity on a timeline for you and has expressed her interest in allowing this type of business to operate at this time. As soon as I have more information, I will be in touch.

Again, I apologize for the inaccuracy of my previous correspondence with you.

Regards,  
Tanya

**Tanya Albert**  
Aide to Supervisor Judy Arnold  
3501 Civic Center Drive, Ste. 329  
San Rafael, CA 94903  
(415) 473-7371

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**From:** Albert, Tanya  
**Sent:** Wednesday, June 3, 2020 9:49 AM  
**To:** [info@skydivegoldengate.com](mailto:info@skydivegoldengate.com)  
**Subject:** FW: Plans to resume skydiving

Hi Michael –

I haven't been able to receive confirmation on if your business would have fallen under "essential" under the original Order. But, our airport staff has confirmed for me that you can operate under the updated Order which allows for outdoor recreation/business. Please see below for link to guidelines (once on the page, scroll down to "Outdoor Recreation Activity Business Guidelines").

Also, please note that all businesses that are open during Shelter in Place are required to complete a Site Specific Protection Plan. Details can be found here:  
<https://marinrecovers.com/agencies/guidelines-for-businesses/>

**Tanya Albert**

Aide to Supervisor Judy Arnold  
3501 Civic Center Drive, Ste. 329  
San Rafael, CA 94903  
(415) 473-7371

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- ~Visit the [Marin HHS Coronavirus website](#) for FAQs, case count, and a variety of resources

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**From:** Williams, Tony <[TWilliams@marincounty.org](mailto:TWilliams@marincounty.org)>

**Sent:** Wednesday, June 3, 2020 8:38 AM

**To:** Albert, Tanya <[TAlbert@marincounty.org](mailto:TAlbert@marincounty.org)>; Jensen, Dan <[DJensen@marincounty.org](mailto:DJensen@marincounty.org)>

**Subject:** RE: Plans to resume skydiving

Hi Tanya,

In general we have avoided making these determinations but in this case it is pretty straight-forward and YES they can resume per recent Health Orders. Here is guidance for their type of business:

<https://marinrecovers.com/parks-outdoor-recreation/>

I am seeking clarification about the required Site-specific Protection Plan (SPP) through the ADMINDOC on whether or not we (the County) needs to review it or keep it on file.

**Tony Williams, PE, QSD**

Assistant Director

Department of Public Works

415.473.6432 T

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**From:** Michael Knight <[info@skydivegoldengate.com](mailto:info@skydivegoldengate.com)>

**Sent:** Thursday, May 28, 2020 7:11 PM

**To:** Albert, Tanya <[TAlbert@marincounty.org](mailto:TAlbert@marincounty.org)>

**Subject:** Plans to resume skydiving

Hi Tanya,

I hope this message finds you well.

We have been working on a plan to resume skydiving operations at Gnoss, and I'm confident we can resume operations safely in the near future. I'm wondering if you can point me in the right direction if we need to talk to someone about reopening. I want to make sure we are complying with county regulations and won't be told by

airport staff that we need to close our doors and cancel on customers once we have reopened.

I know flight schools have been in operation at Gnoss for at least six weeks. As I understand it, flight training is considered an essential business. In multiple Bay Area counties, tandem skydiving operations have continued throughout the shutdown under the umbrella of flight training. We chose to close in early March holding the safety of our staff and customers as our highest priority, but feel with the proper mitigation measures, skydiving can be practiced as safely as flight training. Even though we feel we could reopen safely now, we are looking to a June 13th start date.

If it helps, here are just a few of our plans when our doors do open:

- Masks (in particular buffs, which will stay on throughout a skydive) will be required for staff and customers at all times. If a customer does not have an adequate face covering, we will require they purchase one from us.
- All customer activities (waiting, gear up, waiving, etc) will be moved outdoors and spaced six feet apart.
- We will display signs explaining social distancing, hand washing and face covering.
- We will disinfect our office and any objects touched by customers (pens, clip boards, etc) between each use.

I appreciate any direction you're able to provide.

Best regards,

Michael

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Michael Knight  
Skydive Golden Gate  
415-770-4011  
[info@skydivegoldengate.com](mailto:info@skydivegoldengate.com)

Email Disclaimer: <https://www.marincounty.org/main/disclaimers>

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Michael Knight  
Skydive Golden Gate  
415-770-4011  
[info@skydivegoldengate.com](mailto:info@skydivegoldengate.com)

Email Disclaimer: <https://www.marincounty.org/main/disclaimers>

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